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Hot Topic: How States and Federal OSHA Are Responding to Extreme Heat

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As record-breaking temperatures continue to impact communities and workplaces across the country, heat illness prevention remains a top priority for regulators at both the federal and state levels. Below is an update on recent legislative and regulatory developments aimed at protecting workers from the hazards of extreme heat.

Federal OSHA: Rulemaking Hearing and Legislation

On the Fed/OSHA level, the current debate revolves around, if a final rule is promulgated within the next 3.5 years, whether that standard should be more prescriptive, or more performance-oriented, than the current proposed rule as drafted. The two updates below, regarding the rulemaking hearing, and new legislation that has recently been introduced, reflect this tension.

Rulemaking Hearing: As we just [reported](#), the public rulemaking hearing on Fed/OSHA's proposed Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings rule recently concluded on July 2, 2025, after commencing on June 16, 2025. The proposed rule as drafted contains numerous prescriptive requirements. Many industry stakeholders, including our Employers Heat Illness Prevention Rulemaking Coalition, provided testimony encouraging OSHA to modify the proposed rule so that any final standard that is promulgated is performance-oriented and flexible. While difficult to predict, OSHA did ask industry, including our Coalition, numerous questions about how it can craft a more performance-oriented standard, suggesting that OSHA is at least open to, and perhaps even seriously considering, this approach for the future of the rulemaking.

Legislation: On the other hand, House and Senate Democrats have introduced legislation seeking to essentially force OSHA to issue a fairly prescriptive federal standard. Rep. Judy Chu (D-CA) introduced H.R. 4443 July 16, 2025, while Sen. Alex Padilla (D-CA) introduced the companion bill, S. 2298, the same day. The bill has 90 Democratic cosponsors in the House and 25 Democratic cosponsors in the Senate. It is backed by the United Farm Workers, American Federation of State, County and Municipal Employees, United Steelworkers, AFL-CIO, Teamsters, Public Citizen and National Employment Law Project.

From a process perspective, there are set rulemaking timelines. Per a [fact sheet summary of the bill](#), *"OSHA will be required to offer a substantive and timely decision on any petitions for rulemaking under [the] Act"* 


within 18 months. If OSHA approves a petition for rulemaking, it must publish a proposed rule within one year. A proposed rule must be followed by a final rule within one year."

Substantively, the bill would require OSHA "to establish an enforceable standard to protect indoor and outdoor workers in jobs at risk for hazardous heat stress with measures like paid breaks in cool spaces, access to water, limitations on time exposed to heat, and emergency response for workers with heat-related illness," according to the fact sheet. Additionally, per the fact sheet, the bill would direct employers to provide training and hazard advisories to their employees about heat stress in the language their employees understand and in a format appropriate for their literacy and education levels.

The fact sheet also includes some unique language about technology advancements in this area, as well as the statute of limitations. On the former, it states, "Given increased scrutiny in the courts applying the Major Questions Doctrine when reviewing creative applications of such broad grants of authority, OSHA is specifically authorized to think creatively and update standards over time, as technology improves or heat-related hazards worsen." Indeed, per the fact sheet, "Whenever OSHA updates or revises heat standards in the future, it will be prohibited from rolling back existing protections . . ." On the latter, the legislation also provides for a longer statute of limitations than the Occupational Safety and Health ("OSH") Act. While the OSH Act's limitations are 6 months for citations and 30 days for whistleblower claims, the bill sets the statute of limitations at 4 years and 180 days, respectively.

Takeaways: Despite the bill, we do think it is unlikely that the draft as proposed, or as may be modified to become more prescriptive, will be promulgated within the next 3.5 years. Rather, we think it is more likely that this OSHA will either put the proposed rule on the long-term actions list (i.e., the backburner) or promulgate a more performance-based, flexible standard, such as the one for which we are advocating.

Arizona Launches Workplace Heat Safety Task Force

On May 22, 2025, Arizona Governor Katie Hobbs signed [Executive Order \(EO\) 2025-09](#), requiring the Arizona Division of Occupational Safety and Health (ADOSH) to establish a Workplace Heat Safety Task Force charged with drafting heat safety guidelines for employers by the end of 2025. The task force will include  representatives from private sector, the public sector, worker representatives, and occupational safety and health experts.


Per the EO, the guidelines will clarify what constitutes a heat safety hazard under the Occupational Safety and Health (OSH) Act's General Duty Clause. These guidelines will inform how ADOSH's compliance safety and health officers (CSHO) enforce heat safety standards. While the specifics of the guidelines are still being developed, the task force will use heat data to go beyond basic recommendations like water, rest, acclimatization, and shade. The guidelines will offer detailed, industry-specific recommendations to help employers develop practical and effective heat safety plans.

This all builds on Arizona's Heat State Emphasis Program (SEP), launched in Summer 2023, which focuses on the importance of water, rest, and shade for reducing worker exposure to heat-related hazards that result in illness. At the time of the signing of the EO, since the launch of the Heat SEP, ADOSH conducted 467 free and voluntary consultations for employers, and found that many employers go above and beyond basic standards to

ensure the safety and productivity of their employees, furthering workplace safety efforts as effective means of recruiting and retaining talented employees, mitigating costs and risks to their business, and acting as model employers and corporate citizens in Arizona's business community. Accordingly, the EO also states that ADOSH must create a recognition program that commends employers that go above and beyond basic requirements to support the safety, health, and welfare of their employees with regard to heat safety.

Once completed, the guidelines will be recommended for approval by the Industrial Commission of Arizona, with the intent to implement them by Summer 2026. Therefore, the EO does not appear to have an immediate impact on employers or their responsibilities under the OSH Act's General Duty Clause. In the meantime, ADOSH CSHOs will continue to evaluate worksites for potential heat hazards during inspections, in line with the SEP.

California Proposed Draft Changes to Indoor and Outdoor Heat Illness Standards

On May 7, 2025, the California Division of Occupational Safety and Health (Cal/OSHA) posted [proposed draft changes](#) to the indoor and outdoor heat illness prevention standards in an effort to comply with requirements from AB 2243, signed into law in 2022. The deadline to submit written comments on the draft was July 7, 2025. 

Distribution Requirement

Under the proposed revisions, employers would be required to distribute their written indoor and outdoor plans upon hire, during heat illness prevention training, and to every employee at least once a year. Employers are not required to distribute the plan to an employee more than twice a year. Electronic distribution is also permitted if employees can receive documents in that way.

Outdoor Acclimatization Requirements

The proposal updates and expands outdoor acclimatization requirements:

- "High heat area" is now defined (or clarified) as any area where the temperature equals or exceeds 95°F, aligning it with the existing "high heat" threshold used elsewhere in the regulation.
- For new and returning employees assigned to work in areas where the temperature exceeds 80°F, employers must either:
 - Implement the high heat procedures in §3395(e) for five working days, or
 - Follow a phased acclimatization schedule, based on federal OSHA's proposed rule:
 - New employees:
 - Day 1: 20%
 - Day 2: 40%
 - Day 3: 60%
 - Day 4: 80%
 - Day 5: 100%

- Returning employees (after being away for more than 14 days):
 - Day 1: 50%
 - Day 2: 60%
 - Day 3: 80%
 - Day 4: 100%

Acclimatization is not required if the employer can demonstrate that the employee consistently worked under the same or similar conditions as the employer's working conditions within the prior 14 days.

Indoor Acclimatization Requirements

For indoor work environments, employers would also have two compliance options:

1. Implement the risk assessment and control procedures in §3396(e)(2) (excluding engineering controls in §3396(e)(2)(A)) for five working days, or
2. Use the same phased acclimatization schedules outlined above for outdoor workplaces

Like for outdoor workers, acclimatization is not required if the employer can demonstrate that the employee consistently worked under the same or similar conditions as the employer's working conditions within the prior 14 days.

AB 2243 requires the standards board to review the proposed changes and consider adopting revised standards by December 31, 2025.

Takeaways

As climate change intensifies, federal and state agencies are moving to address the growing threat of heat illness in the workplace. Employers are well-advised to stay up to date on evolving legislation and regulations and develop or update their existing programs as needed. If you have questions about federal OSHA or state-level efforts to regulate occupational heat illness, please contact us.